

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EAT RIGHT FOODS LTD.,

Plaintiff,

v.

WHOLE FOODS MARKET SERVICES, INC.  
and WHOLE FOODS MARKET PACIFIC  
NORTHWEST, INC.,

Defendants.

WHOLE FOODS MARKET SERVICES, INC.,

Third-Party Plaintiff,

v.

NUTRITIONAL EXCELLENCE, LLC and  
KEVIN LEVILLE,

Third-Party Defendants.

CASE NO. 2:13-CV-02174-RSM

THIRD-PARTY DEFENDANTS'  
MOTION FOR ENTRY OF JUDGMENT  
REGARDING AWARD OF  
ATTORNEYS' FEES

Noted for Consideration: March 20, 2015

**THIRD PARTY DEFENDANTS' MOTION FOR ENTRY OF JUDGMENT**

Pursuant to Fed. R. Civ. P. 54(d)(2) and 58(a)(3), Third-Party Defendants Nutritional Excellence, LLC and Kevin Leville (collectively, "Third-Party Defendants") respectfully move for

THIRD-PARTY DEFENDANTS' MOTION FOR ENTRY  
OF JUDGMENT REGARDING AWARD OF ATTORNEYS'  
FEES - 1  
CASE NO. 2:13-CV-02174-RSM

SUMMIT LAW GROUP PLLC  
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1 entry of judgment with respect to the Court's February 18, 2015 Order Regarding Attorneys' Fees  
2 and state as follows:

3 1. On October 23, 2014, the Court granted Third Party Defendants' Motion to Dismiss,  
4 finding that the Court lacked personal jurisdiction over Third Party Defendants. *See* Dkt. #62.

5 2. On October 24, 2014, the Court entered the Order on the Third Party Defendants'  
6 Motion to Dismiss as a final judgment. *See* Dkt. #65.

7 3. Subsequently, Third Party Defendants filed a Motion for Attorneys' Fees pursuant to  
8 RCW 4.28.185(5). *See* Dkt. #80.

9 4. On February 18, 2015, the Court granted the Motion for Attorneys' Fees in part.  
10 Specifically, the Court awarded Third Party Defendants' local counsel, Summit Law Group, the  
11 amount of \$2,885.50 in attorneys' fees related to the motion to dismiss and awarded Third Party  
12 Defendants' national counsel, Pastore & Dailey LLC, the amount of \$44,358.90 in attorneys' fees  
13 and costs related to the motion to dismiss.  
14

15  
16 WHEREFORE, Third Party Defendants move for entry of Judgment against Whole Foods  
17 Market Services, Inc., the party who brought the Third Party Complaint against Third Party  
18 Defendants and against whom the Order on the Motion for Attorneys' Fees was rendered, and  
19 request an award for attorneys' fees as follows:

- 20 (i) **\$2,885.50 to Summit Law Group; and**  
21  
22 (ii) **\$44,358.90 to Pastore & Dailey LLC.**

23 A proposed order accompanies this motion.  
24  
25  
26

1 DATED this 3rd day of March, 2015.

2 Respectfully submitted,

3 SUMMIT LAW GROUP PLLC  
4 Attorneys for Third-Party Defendants Nutritional  
5 Excellence, LLC and Kevin Leville

6 By /s/ Molly A. Terwilliger

7 Molly A. Terwilliger, WSBA #28449  
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9 and

10 Michael A. Zamat, *pro hac vice*  
11 Joseph M. Pastore III, *pro hac vice*  
12 Pastore & Dailey LLC  
13 4 High Ridge Park, 3<sup>rd</sup> Floor  
14 Stamford, CT 06905  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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*Attorneys for Plaintiff Eat Right Foods LTD.*

DATED this 3rd day of March, 2015.

/s/ Denise Brandenstein  
Denise Brandenstein, Legal Assistant

4811-5930-1922, v. 3